

Legalisation of Public Documents within the EU Member States

SWEDEN

National Rapporteurs:

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PART I – Documents operating cross-border: Current legal practice as regards legalisation or other similar or equivalent requirements

OVERVIEW OF PART I

PART I.A. General

I.A.1. European Community Law

I.A.1.1. Introduction

I.A.1.2. Implementation of specific measures

Area of Justice - judicial cooperation in civil matters (Article 61(c) EC)

Article 19 of Regulation (EC) No 1346/2000

This EC Regulation was supplemented by the Swedish law SFS 2005:1046 (SFS = Svensk Författningssamling, The Swedish Code of Statutes), Lag med kompletterande bestämmelser till insolvensförordningen, which entered into force on January 1, 2006. Nothing in the law supplements or affects Article 19, but the requirements were already met, since Sweden generally not applies any legalisation requirements or other similar or equivalent requirements (this was not even mentioned in the government bill, Proposition 2005/06:37 EU:s insolvensreglering). Hence Sweden has in fact effectively implemented the Community law requirements.

The adjoining Directive 2001/17/EC of the European Parliament and of the Council of 19 March 2001 on the reorganization and winding-up of insurance undertakings, and Directive 2001/24/EC of the European Parliament and of the Council of 4 April 2001 on the reorganization and winding up of credit institutions, were implemented by the Swedish law SFS 2005:1047, lag om internationella förhållanden rörande försäkringsföretags och kreditinstituts insolvens. 4 § (2) states that the administrator or liquidator's appointment may be evidenced by a certified copy of the original decision appointing him or by another certificate, and that a translation into Swedish shall be provided on demand. In the government bill it was emphasized that the appointment also may be evidenced in other ways; but the stated ways will always be accepted (Proposition 2005/06:37 p 53: "Bestämmelsen utesluter inte att behörigheten kan visas på andra sätt. Innebörden är att de sätt som anges i bestämmelsen under alla

förhållanden måste godtas.”) This may be seen as a tribute to the principles of free production and free assessment of evidence generally applied in Swedish law.

Furthermore it should be noticed that the Swedish authorities and administrative courts has a responsibility for the case being properly investigated. Consequently, they may sometimes request supplements for the investigation or order the parties to produce the evidence on which they rely. As regards administrative courts this is explicitly stated in Section 8 of The Administrative Court Procedure Act (SFS 1971:291, Förvaltningsprocesslag) under the heading “Processing of cases”:

“The court shall ensure that a case is as well investigated as its nature requires.

If necessary, the court will direct how the investigation should be supplemented. Superfluous investigation may be dismissed.”

N. B. Matters only concerning translations of documents and translation procedures are not treated here or in the following comments! (Yet, cf. I.B.2.11.)

Article 4(4) of Regulation (EC) No 1348/2000

This EC Regulation was supplemented by the Swedish governmental declaration SFS 2001:352, Tillkännagivande om rådets förordning (EG) nr 1348/2000 om delgivning i medlemsstaterna av handlingar i mål och ärenden av civil eller kommersiell natur, which entered into force on May 31, 2001. Nothing in the declaration supplements or affects Article 4 (4), but the requirements were already met, since Sweden generally not applies any legalisation requirements or other similar or equivalent requirements. Obviously no enactment of law was considered necessary (cf. Proposition 2002/03:76 page 18 and 34).

Article 56 of Regulation (EC) No 44/2001

This EC Regulation is now supplemented by the Swedish governmental ordinance SFS 2005:712, Förordning med föreskrifter om erkännande och internationell verkställighet av vissa avgöranden, which entered into force on October 21, 2005, and replaced SFS 1998:1321. Nothing in the ordinance affects article 56, but the requirements were already met, since Sweden generally not applies any legalisation requirements or other similar or equivalent requirements. Obviously no enactment of law was considered necessary (cf. Proposition 2002/03:76 page 18 and 34).

The Swedish Code of Judicial Procedure (Rättegångsbalken, SFS 1942:740), chapter 12 section 9 third paragraph, states: “If the court doubts the signature of a party on the power of attorney, it may grant a postponement pending verification.” According to the travaux préparatoires objections from the adverse party may cause such doubts (NJA II 1943 s 141). No certain method of verification is prescribed.

Article 57 of Regulation (EC) No 44/2001

See the last comment. It does not follow from the Swedish provisions that authentic instruments and agreements are not to be treated in the same way as judgments granted in other Member States.

Article 58 of Regulation (EC) No 44/2001

See the last comment.

Article 46 Regulation (EC) No 2201/2003

This EC Regulation is supplemented by the Swedish law, SFS 2001:394, Lag med kompletterande bestämmelser till Bryssel II-förordningen, which entered into force on July 1, 2001 (then supplementing Regulation (EC) No 1347/2000), and by the two Swedish governmental ordinances SFS 2005:97, Förordningen med kompletterande bestämmelser till Bryssel II-förordningen, which entered into force on April 1, 2005, and SFS 2006:467, Förordning om verkställighet av vårdnadsavgöranden, which entered into force on July 1, 2006. Nothing in the law or the ordinance supplements or affects Article 46 in any aspect relevant to the present study. However, the requirements were already met, since Sweden generally not applies any legalisation requirements or other similar or equivalent requirements. Either the original or a certified copy of the document in question shall be produced.

It does not follow from the Swedish provisions that authentic instruments and agreements are not to be treated in the same way as judgments granted in other Member States.

On October 1, 2000, the Central Authority for international judicial cooperation moved from the Ministry for Foreign Affairs to the Ministry of Justice, cf. I.A.3.4 below.

Article 52 of Regulation (EC) No 2201/2003

Nothing in the abovementioned law or ordinance supplements or affects Article 52 in any aspect relevant to the present study. However, the requirements were already met, since Sweden generally not applies any legalisation requirements or other similar or equivalent requirements. Either the original or a certified copy of the document in question shall be produced.

The Swedish Code of Judicial Procedure (Rättegångsbalken, SFS 1942:740), chapter 12 section 9 third paragraph, states: "If the court doubts the signature of a party on the power of attorney, it may grant a postponement pending verification." According to the travaux préparatoires objections from the adverse party may cause such doubts (NJA II 1943 p 141). No certain method of verification is prescribed.

Article 52 Regulation (EC) No 2201/2003, certificates drawn up in the standard forms of ANNEX I (Article 39), II (Article 39), III (Article 41) or IV (Article 42)

See the last comments.

Article 27 of Regulation (EC) No 805/2004

This EC Regulation is supplemented by the Swedish governmental ordinance SFS 2005:712, Förordning med föreskrifter om erkännande och internationell verkställighet av vissa avgöranden, which entered into force on October 21, 2005. As mentioned above this also supplements Regulation (EC) No 44/2001. This may contribute to coordination of the regulations. The possibilities in accordance with Regulation (EC)

No 44/2001 seem to be unaffected.

ANNEXES I (Article 9 - judgments), II (Article 24 – court settlements) and III (Article 25 – authentic instruments) of Regulation (EC) No 805/2004

Nothing in the abovementioned ordinance supplements or affects the annexes in any aspect relevant to the present study. It may be noted that authentic instruments barely exist in Swedish law (see Proposition 1991/92:128 page 215).

Article 13(5) of Directive 2002/8/EC

This Directive (rightly 2003/8/EC, see Corrigendum [2003] Official Journal of the European Union L 32/15) was implemented in Swedish law by the law SFS 2004:738, Lag om ändring i rättshjälpslagen (1996:1619), which amended the Law of Legal Aid (rättshjälpslagen, 1996:1619).

Just like other documents in the Swedish legal context, documents transmitted under this Directive are not subject to legalisation or any equivalent formality. However, unlike most other of the Swedish legislation projects relevant to the present study, this matter was explicitly treated in connection to this one. In proposition 2003/04:87, Rättshjälp i gränsöverskridande rättsliga angelägenheter, the government stated that the demands of Article 13.5 did not call for any Swedish regulation, since Sweden not applies any legalisation requirements or similar formal requirements (p. 36: "Artikel 13.5 i rättshjälpsdirektivet säkerställer att det för handlingar som översänds med stöd av rättshjälpsdirektivet inte ställs upp några krav på legalisering eller liknande formella villkor. Eftersom Sverige inte tillämpar villkor om legalisering finns det inte något behov av reglering av detta.")

Free movement of goods (Article 23 EC)

Article 250 of Regulation (EEC) No 2913/92

Sweden has adopted several statutory instruments in order to implement this EC Regulation (see e g Proposition 1994/95:34, Den svenska tullagstiftningen vid ett EU-medlemskap), but none is directly aimed at Article 250.

As was mentioned above, the principle of free evaluation of evidence is generally applied in Swedish law. However this would not interfere with the demands of Article 250. The Swedish Code of Judicial Procedure (Rättegångsbalken, SFS 1942:740), chapter 35 section 1 second paragraph, states: "As to the effect of certain kinds of evidence, the specific provisions thereon shall govern." Article 250 might be regarded as specific provisions of that kind.

Free movement of workers - social security (Article 42 EC)

Article 85 Regulation (EEC) No 1408/71 read in conjunction with Regulation (EEC) No 574/72

Sweden adopted some statutory instruments in order to implement these EC Regulations before the country became a full member of the EU (see Proposition 1994/95:37 p. 4-5). Now there are some few supplementing rules, but none is directly

aimed at the objectives of Article 85. However, the requirements of Article 85 (2) were met from the beginning, since Sweden generally not applies any legalisation requirements or other similar or equivalent requirements.
Neither seems Article 85 (1) to be relevant in the Swedish legal context.

I.A.1.3. Judicial control

There is no Swedish case-law relevant to the enumerated rules of Community law against legalisation or other extra formalities.

I.A.2. Hague Convention of 5 October 1961 (the 'Apostille' Convention)

I.A.2.1. Status

The information on the status of the Convention in Sweden is correct (see Sveriges internationella överenskommelser, Sweden's international agreements = SÖ 1999:1. Parts of the SÖ Series are found at <http://www.regeringen.se/sb/d/3305/a/17262>.

I.A.2.2. Scope

The geographical scope of application has not been extended beyond the states party to the Convention. Neither has the material scope been changed. However, this is of marginal importance, since Sweden generally not applies any legalisation requirements or other similar or equivalent requirements. Documents originating from states party to the Convention are thus treated in the same way as documents originating from other states. Accordingly a document is treated in the same way as regards such requirements whether or not it is within the material scope of application of the Convention.

I.A.2.3. Legislative implementation

The Convention was implemented into Swedish law by the abovementioned SÖ 1999:1 (Sveriges internationella överenskommelser, Sweden's international agreements), which contains the Convention text. There are no travaux preparatoires. Also see below.

I.A.2.4. Practical implementation

1. An Apostille can be requested by postal delivery, delivery by courier or by hand delivery where the individual seeking the Apostille attends in person at the Office of a Notary Public (*notarius publicus*). Original documents must be provided and a fax or e-mail will thus not be sufficient, but an appointment may be booked in an informal way.
2. An experienced Notary Public (like the one who has provided information for this study, Mr Bengt Lion, Notary Public in the municipalities of Mölndal and Härryda) will usually be familiar with most of the officials issuing the documents, whose different elements are to be verified. In such cases, where the elements also seem to be in good order, no thorough control will be made. If there is any uncertainty regarding these elements, the Notary Public will try to verify them by checking registers of officials and authorities, and by calling the official or authority in question. In some very few cases further documentation (like copies of signatures or stamps) or attention in person is demanded.
3. A stamp or a printout is used. Copies are enclosed with the completed questionnaire.
4. The Apostille will usually be stamped (or printed) directly onto the public document itself, after the signature, if there is enough space. Otherwise the Apostille is placed on a so-called allonge.
5. When the public document consists of multiple pages the Apostille is placed

- according to (4) above, and the pages are put together with a thread (however, this is not regulated).
6. The text of the stamp is in English or another foreign language spoken by the Notary Public in question (e.g. German, French, and Spanish in the case of Mr. Bengt Lion)
 7. The system used for the issuance of an Apostille is mechanical (including printout from a printer).
 8. Presenting a fraudulent document to the public might be punished under the Swedish Penal Code (cf. the emphasis on the importance of this fact as regards the evidentiary weight of public documents made by Ernst Kallenberg: Svensk civilprocessrätt, Andra bandet: I, Lund 1927, page 810-811.). Otherwise the checks described at (2) above are the only methods used to avoid fraud.
 9. There are no plans to modernize the system used to issue Apostilles, but the single Notary Public has a wide discretion to organize the practical administration of the system.
 10. The total process from initial consultation to issuing of an Apostille generally takes no more than a day. Most public notaries are very flexible as regards times for appointment.
 11. A Notary Public has the right to collect "a reasonable compensation" ("skälig ersättning") for services rendered, see the governmental ordinance SFS 1982:327, Förordningen om notarius publicus, 12 §. The fee payable for the issuance of a single Apostille is approximately 300 Swedish crowns (kronor, approximately € 32, incl. 20 % VAT), but some charge more some less. The price per Apostille is lower if several are demanded at the same time. The fees are aimed at bringing some revenue.

The same general procedure apply to all documents and to all States party to the Hague Convention,

Please describe the system used to comply with the **registration or card index requirement**, see Article 7 of the Convention.

1. Is the system used electronic? – Different public notaries use different systems.
2. Are there any plans to modernize the system used? – This is decided by the single Notary Public.
3. By which methods can the register or card be consulted in accordance with Article 7 of the Convention? – The Notary Public is obliged to make the index available to anyone who wants to consult it; that scarcely occurs.

Please verify and, if necessary, correct the information for your Member State on the **competent authorities** under Article 6 of the Convention. The final information should include:

1. the number of authorities
2. their identity and contact details
3. the name and contact details of an approachable contact person at the competent authority(ies).

1-3. Every Notary Public (*notarius publicus*) and assistant Notary Public (*biträdande notarius publicus*) is a competent authority in Sweden (see SFS 1982:327, 6 a §). There are approximately 130 public notaries in Sweden. Some of them have at least one assistant Notary Public, who serves only when the Notary Public is not on duty (see SFS 1982:327, 13 §). A list of the Notaries Public and assistant Notaries Public, including their contact details, is enclosed with the completed questionnaire (Sweden's Official Directory, *Statskalendern* 2005, page 339-343).

From January 1, 2005, the Ministry for Foreign Affairs, is no longer a competent authority (see Decree SFS 2005:533, Tillkännagivande i fråga om Haagkonventionen om slopande av kravet på legalisering av utländska allmänna handlingar, which replaced SFS 2001:727). According to the Ministry, represented by Mr. Roland Nilsson, this was due to an unbearable work load.

NB. In case of multiple competent authorities, is the same system described above used by all authorities? – As noted above the single Notary Public has a wide discretion to organize the practical administration of the system.

I.A.2.5. Judicial control

There is no Swedish case-law relevant to the functioning of the Convention.

I.A.2.6. Empirical analysis

Due to their plurality it is hard to single out just one of the Notaries Public as being “an adequate sample authority”. Furthermore, if only one is singled out, it won't tell a lot about the application in general. Irregularity is commonplace. Some weeks a Notary Public like the one in the municipalities of Mölndal and Härryda might issue none or only one Apostille, while up to ten are issued another week.

I.A.3. Parallel international agreements

I.A.3.1. Status

Sweden is party to (or has signed) all of the conventions listed, but two: The 1987 Brussels Convention abolishing the Legalisation of Documents in the Member States of the European Communities and The Hague Convention concerning the International Administration of the Estates of Deceased Persons (1973).

I.A.3.2. Scope

The geographical scope of application has not been extended beyond the states party to the Conventions in question. Neither has the material scope been changed. However, in most cases this is of marginal importance, since Sweden generally not applies any legalisation requirements or other similar or equivalent requirements. Documents originating from states party to the Conventions are thus treated in the same way as documents originating from other states. Accordingly a document is treated in the same way as regards such requirements whether or not it is within the material scope of application of the Conventions. Hence the interrelation between the different instruments is irrelevant regarding legalisation etc.

I.A.3.3. Legislative implementation

The 1968 Council of Europe Convention for the Abolition of Legalisation of Documents Executed by Diplomatic Agents or Consular officers

The Convention entered into force on December 28, 1973, see SÖ 1973:60 and the implementing governmental circular, SFS 1973:874, Cirkulär om Sveriges tillträde till europeiska konventionen den 7 juni 1968 om avskaffande av legalisering av handlingar som utfärdas av diplomatiska eller konsulära tjänstemän. There are no travaux préparatoires.

The Hague Convention concerning the Recognition and Enforcement of Decisions

Relating to Maintenance Obligations Towards Children (1958)

The Convention entered into force on March 1, 1966, and was implemented in Swedish law by the law SFS 1965:723, Lag om erkännande och verkställighet av vissa utländska domar och beslut angående underhåll till barn. Parts of the the government bill, Proposition 1965:139 (p 13-16 and 22-24), where the legislator's intention with and motivation for the ratification and the implementation of the agreement are expressed, are enclosed. Mainly in connection to Article 4 of the Convention the following was stated in the bill (p 23): "Of course an original document is accepted. So is a copy, certified by the decision-making authority, or by another authority, whose certification is accepted in the state in question, e g Notary Public or a lawyer who is competent to execute notarial acts."

The Hague Convention on Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (1969)

The Convention entered into force on October 1, 1969, see SÖ 1969:26 (altered by SÖ 2000:34), and was implemented in Swedish law by the governmental circular SFS 1969:495, Cirkulär till statsmyndigheterna med anledning av Sveriges tillträde till Haagkonventionen om delgivning i utlandet av handlingar i mål och ärenden av civil eller kommersiell natur, amended by Cirkulär 1975:303 and, instructions from the Ministry for Foreign Affairs, SFS 1969:504. Later this was replaced by the instructions SFS 1988:251, Utrikesdepartementets föreskrifter (1988:251) om förfarandet vid översändande av delgivningsframställningar enligt 1965 års Haagkonvention om delgivning i utlandet av handlingar i mål och ärenden av civil eller kommersiell natur. There are no relevant travaux preparatoires.

The Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters (1972)

The Convention entered into force on July 1, 1975, see SÖ 1975:34 (altered by SÖ 1980:28 & SÖ 2000:37), and was implemented in Swedish law by a governmental circular (SFS 1975:305), which is now abrogated, see the current SFS 2005:123, Tillkännagivande av andra staters anslutning till vissa konventioner om civilrättsligt samarbete. The laws SFS 2000:562, Lag om internationell rättslig hjälp i brottmål, and SFS 1946:817, lag om bevisupptagning vid utländsk domstol, contain general statutes on taking of evidence abroad. There are no relevant travaux preparatoires.

The Hague Convention on International Access to Justice (1988)

The Convention entered into force on May 1, 1988, see SÖ 1986:72 (altered by SÖ 2000:39) and has been implemented in Swedish law by the law SFS 1986:1042 on enforcement of some foreign orders of costs (Lag om verkställighet av vissa utländska beslut om rättegångskostnader) and a series of governmental declarations, see the current SFS 2005:123, Tillkännagivande av andra staters anslutning till vissa konventioner om civilrättsligt samarbete.

Section 3 of the law SFS 1986:1042 regulates what documents shall be attached to an application for enforcement of a foreign order of costs (cf. applications for legal aid, to which Article 10 of the Convention applies). Among them is an attestation to prove that the order is no longer subject to the ordinary forms of review in the State of origin and that it is enforceable there ("Bevis att beslutet har vunnit laga kraft"; cf. Article 17 of the Convention). Unlike almost every other similar provision in Swedish law this attestation shall be accompanied by a certificate verifying that the attestation is made by a competent authority ("Intyg att lagakraftbeviset har utfärdats av en behörig myndighet"). Furthermore Section 3 prescribes in detail how the verification shall be performed: "The

certificate shall be issued by a Swedish legation or consul or the head of the justice administration in the state where the order was issued." ("Intyget skall vara utfärdat av en svensk beskickning eller konsul eller av chefen för justitieförvaltningen i den stat där beslutet har meddelats.")

Was it not for a following subparagraph, this would be (a seemingly unique) Swedish example of a requirement similar or equivalent to legalisation. It states: "The [abovementioned] attestation and certificate do not have to be produced, if it is in another way proven that the order is no longer subject to the ordinary forms of review in the State of origin and that it is enforceable there." ("Bevis och intyg som avses i första stycket 2 och 3 behöver inte ges in, om det på annat sätt styrks att beslutet har vunnit laga kraft.")

An extract from the government bill proposing the law SFS 1986:1042, Proposition 1985/86:161 (page 18-20) om Sveriges tillträde till Haagkonventionen den 25 oktober 1980 om internationell rättshjälp, is enclosed. The marked part on page 20 treats the abovementioned verification: "This refers to the insistence on legalisation of documents and similar formalities applied in some countries, and to the fact that duly legalised documents, stating that the order is no longer subject to the ordinary forms of review in the State of origin, are approved [- - -] [J]ust like in the former law, it is appropriate to prescribe that the applicant shall prove that the attestation is made by a competent authority, usually a court. The current statutes in the law of 1899 [Lag (1899:12 s. 9) om verkställighet i visst fall av utländsk domstols beslut] have been linguistically adapted and put into [the new one]." – Apparently this odd regulation rests on older considerations.

The Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children (2002)

Sweden has signed the convention on April 1, 2003, but has not ratified it.

The Hague Convention on Civil Aspects of International Child Abduction (1980)

The Convention entered into force on June 1, 1989, see SÖ 1989:7, and has been implemented in Swedish law mainly by the law 1989:14, Lag om erkännande och verkställighet av utländska vårdnadsavgöranden m. m. och om överflyttning av barn. An extract from the government bill, Proposition 1988/89:8 (page 45) is enclosed. The law was last altered by Proposition 2005/06:99.

Other International Agreements which can have a great impact on either legalisation of documents relating to a specific subject matter, or the cross border use of public documents between two or more specific (Member) States:

Most important are some Conventions between the Nordic countries regulating some of the subject matters of the abovementioned conventions. See e.g. the Convention on mutual legal assistance by service of documents and taking of evidence between Sweden, Denmark, Finland, Norway, and Iceland (1975, SÖ 1975:42), currently implemented in Swedish law by the governmental circular SFS 1995:419, cirkulär (1995:419) om inbördes rättshjälp mellan Sverige, Danmark, Finland, Island och Norge genom delgivning och bevisupptagning. However, questions of legalisation of documents etc are not regulated, cf. Maarit Jänterä-Jareborg, cited in the National Bibliography below.

There are also certain agreements, e.g. between Sweden and Austria, Sweden and Great Britain, and between Sweden and Switzerland. However, they do not have an impact considerably exceeding that of the abovementioned Conventions.

I.A.3.4. Practical implementation

As regards legalisation etc. the demands of the abovementioned conventions were already met, since Sweden generally not applies any legalisation requirements or other similar or equivalent requirements. The same applies to all documents and to all States party to the agreements in question.

As from October 1, 2000 the Swedish Central Authority, meaning the receiving, competent, and transmitting authority, where such an authority is prescribed in the Conventions, has been changed from the Ministry for Foreign Affairs to the Ministry of Justice (Justitiedepartementet, Enheten för brottmålsärenden och internationellt rättsligt samarbete, BIRS, Centralmyndigheten).^{*} The contact details are:

Ministry of Justice
Division for Criminal Cases and International Judicial Co-operation
Central Authority
S-103 33 Stockholm
Sweden
phone: +46 8 405 45 00 (secretariat), +46 8 405 10 00 (switchboard), fax: +46 8 405 46 76
e-mail: birs@justice.ministry.se
internet: <http://www.regeringen.se/sb/d/2710;jsessionid=aqs-5zqAtyDd>
No certain contact person is appointed.

^{*} The Ministry for Foreign Affairs is still the Central Authority as regards The Hague Convention on Civil Aspects of International Child Abduction (1980). The contact details are:

Department for Consular Affairs and Civil Law
S-103 39 STOCKHOLM
Sweden
phone: +46 (8) 405 1000 (switchboard), fax: +46 (8) 723 1176
e-mail address: ud@foreign.ministry.se
Internet: <http://www.regeringen.se/sb/d/3101>
Contact person: Mr Örjan Landelius, Director, Head of Section
phone: +46 (8) 405 5061, e-mail: orjan.landelius@foreign.ministry.se

I.A.3.5. Judicial control

There is no Swedish case-law relevant to the functioning of the Conventions, as regards legalisation requirements or other similar or equivalent requirements.

I.A.4. National Law

I.A.4.1. Legislative framework

According to the Swedish governmental ordinance SFS 1999:154, Förordning om rätt för Regeringskansliet (Utrikesdepartementet) att verkställa legaliseringar, the Government Offices (the Ministry for Foreign Affairs) is responsible for legalisation. There are no other regulations of the Swedish process of legalisation or similar or equivalent requirements.

I.A.4.2. Scope

A legalisation certificate can be issued for official documents from a Swedish government agency or from certain other Swedish authorities. If they have an official's original signature and the name printed on it, the following documents, among others, can be legalised immediately:

- documents issued by government agencies (the Swedish Patent and Registration Office, the Medical Products Agency, the Swedish Migration Board, the National Board of Health and Welfare, etc)
- all documents issued by the Tax Agency (birth certificates etc)
- extracts from registers and other police documents
- court documents, such as divorce papers from district courts
- extracts from christening, birth and marriage records from parish civil registration offices
- marriage certificates from the Church of Sweden and civil marriage officials (not including free churches or foreign religious communities), other documents from the Church of Sweden
- grades/certificates from universities, colleges, municipal schools (not independent schools)
- documents signed by a Swedish chamber of commerce, translations done by an authorized public translator (certified by the Legal, Financial and Administrative Services Agency)
- documents signed by a Notary Public (see below)

If a document is signed by a private person, the Ministry for Foreign Affairs can only issue a legalisation certificate if the name is certified by a Notary Public.

I.A.4.3. Practical implementation

The Government Offices (the Ministry for Foreign Affairs, the Judicial Office) is the authority responsible for legalisation in Sweden, see I.A.4.1 above. The contact details are:

Visitors' address:

The Ministry for Foreign Affairs, the Judicial Office
Malmtorgsgatan 3A, 7th floor, Stockholm, Sweden

Visiting hours: Monday-Friday 09.00-11.30

Telephone: +46 8 405 51 00

Telephone hours: Monday-Friday 09.00-11.30 and 14.00-15.00

Postal address: The Ministry for Foreign Affairs, the Judicial Office, S-103 39 Stockholm, Sweden

internet: <http://www.sweden.gov.se/sb/d/3101/a/46794> (e-mail can be sent through a form there)

I spoke to a Mr. Roland Nilsson, who was very helpful. His contact details are telephone: +46 8 405 25 43, and e-mail Roland.Nilsson@foreign.ministry.se.

(In "exceptional cases" a Swedish embassy can legalise a document. A list of the embassies is obtainable here: <http://www.sweden.gov.se/sb/d/5616>)

1. What is the procedure for legalisation or other similar or equivalent requirements (e.g. in person or by post)?
2. Does the same procedure apply to all documents and to all (Member) States?

3. What documents must be provided?

4. How, in practice, does the official carry out the task of legalising a document?
How long does the process take; what fee (if any) is payable?.

1. Documents that are to be legalised can be handed in to the Judicial Office or sent by post.

The applicant must indicate the country where the document will be used as well as his/her name and address. He/she must also indicate whether he/she wishes the legalisation to be done in Swedish, English, French Spanish or German. Unless another agreement has been made with the Judicial Office, the legalised document will be sent back to the applicant cash on delivery.

2. The same procedure applies to all documents and to all (Member) States.

3. Only the document that is to be legalised must be provided. It must always have an original signature (with the name printed in block letters). Hence it can not be sent by e-mail or fax. No additional copies are required.

4. In practice the task of legalising a document is carried out in a way similar to what is described under I.A.2.4. In most cases a legalisation must also be confirmed by the foreign embassy in Stockholm representing the country in which the document is to be used.

Documents that are submitted in person can be picked up after two working days (they can also be sent back by post). Documents sent by post are returned within 2 – 5 days. In some few cases more time is needed due to a heavy workload.

The cost is 120 Swedish crowns (kronor, approximately € 13). However, if it is demanded by international respect or custom, the Ministry for Foreign Affairs may decide that the Swedish state shall defray the cost. See the abovementioned SFS 1999:154.

I.A.4.4. Judicial control

There is no Swedish case-law.

PART I.B. Specific

I.B.1. Introduction

I.B.2. Specific documents

1. Documents proving involuntary unemployment

No legalisation or other similar or equivalent requirements are applied (see to this the general remarks made under I.A.1.2 above). Cf. the Swedish governmental ordinance SFS 2006:97 on aliens, Utlänningsförordning, 3a:8-9, where 'Registration certificate' (registreringsbevis) or a 'residence card' (uppehållskort) are regulated. The authority responsible for the issuing is the Swedish Migration Board, see <http://www.migrationsverket.se/english.jsp>.

2. Documents proving a family relationship or other durable relationship

See (1) above.

3. Documents proving or contesting a parent-child relationship

No legalisation or other similar or equivalent requirements are applied (see to this the general remarks made under I.A.1.2 above). Hence certificates and analogous documents relative to personal status issued by the competent authorities of another Member States are accepted, unless their accuracy is seriously undermined.

The tax agency (Skatteverket) is responsible for the basic population registration in Sweden. For general information see <http://www.skatteverket.se/download/18.b7f2d0103e5e9ecb08000127717b03.pdf>

4. Documents proving the name and forenames of a child or adult

See (3) above.

5. Documents proving or annulling/terminating a marriage/civil partnership or other durable relationship

See (3) above.

6. Documents proving a person's legal establishment for the purpose of pursuing specific regulated professional activities

No legalisation or other similar or equivalent requirements are applied (see to this the general remarks made under I.A.1.2 above). The Swedish National Agency for Higher

education (Högskoleverket) is responsible for evaluating degrees and qualifications from foreign higher programmes. They also provide information on the different Swedish authorities responsible for evaluating regulated professions. See: <http://www.hsv.se/2.7cb94a2910b5ac8d550800012246.html>

7. Documents proving a person's professional qualifications (diplomas)

See (6) above.

8. Documents proving a person's death

No legalisation or other similar or equivalent requirements are applied (see to this the general remarks made under I.A.1.2 above).

9. Documents proving a person's date of birth

See (8) above.

10. Documents proving the establishment by incorporation of a company

No legalisation or other similar or equivalent requirements are applied (see to this the general remarks made under I.A.1.2 above).

The Swedish Companies Registration Office (Bolagsverket) is responsible for matters of this kind, see http://www.bolagsverket.se/in_english/forms_information/index.html

11. Documents proving the constitution of a company, including any official translation thereof

See (10) above.

12. Documents proving the latest banking accounts of a company

See (10) above.

13. Documents proving the deposit of cash or certificates of deposit

We could not find any requirement of this nature in Swedish law.

PART II – Incoming documents: Effects in the Member State’s legal order

OVERVIEW OF PART II

II.A.1. European Community Law

II.A.1.1. The effect of the implementation of Community law

As implicated above, a foreign public document was recognized as such in the legal order of Sweden already before the implementation of the Community Instruments referred to in Part I.A.1 above. In general such documents have a legal status equivalent to a comparable domestic public document. In our view, Sweden has fulfilled its obligations under each of the Community Instruments referred to. We are not aware that any distinction is made as regards documents originating in different Member States, or different types of documents.

II.A.1.2. Admissibility and evidentiary weight in judicial proceedings

In principle a foreign public document, already before the implementation of the Community Instruments referred to in Part I.A.1, was equally admissible in judicial proceedings and produced the same evidentiary weight as equivalent domestic public documents. This recognition is stressed by the implementation.

II.A.1.3. Admissibility and evidentiary weight in administrative matters

See II.A.1.2 above.

II.A.2. Hague Convention of 5 October 1961 (the ‘Apostille’ Convention)

II.A.2.1. The effect of completion of the requirements of the Hague Convention

As implicated above, a foreign public document is recognized as such in the legal order of Sweden already without an Apostille. As to that effect no distinction is made as regards documents originating in different (Member) States party to the Convention.

II.A.2.2. Admissibility and evidentiary weight in judicial proceedings

In principle a foreign public document, already without an Apostille, is equally admissible in judicial proceedings and produces the same evidentiary weight as equivalent domestic public documents. If there are doubts regarding the authenticity of a foreign public document, there is no prescribed way of ascertaining this (the principle of free production of evidence applies). Processing in accordance with the rules of the Convention might be used to do it.

II.A.2.3. Admissibility and evidentiary weight in administrative matters

See II.A.2.2 above.

II.A.3. Parallel international agreements

II.A.3.1. The effect of completion of the requirements of parallel agreements

As implicated above, a foreign public document was recognized as such in the legal order of Sweden already before the entering into the parallel agreements referred to in Part I.A.3 above. In general such documents have a legal status equivalent to a comparable domestic public document.

We are not aware that any distinction is made as regards documents originating in

different States party to the applicable agreement or between different types of documents which have been processed in accordance with the rules of the applicable agreement.

II.A.3.2. Admissibility and evidentiary weight in judicial proceedings

A foreign public document is equally admissible in judicial proceedings and produces the same evidentiary weight as equivalent domestic public documents. This is the case even without processing in accordance with the rules of the applicable agreement, see above.

II.A.3.3. Admissibility and evidentiary weight in administrative matters

A foreign public document is equally admissible in administrative matters and produces the same evidentiary weight as equivalent domestic public documents. This is the case even without processing in accordance with the rules of the applicable agreement, see above.

II.A.4. National Law

II.A.4.1. The effect of the completion of the requirements of national law

As regards foreign documents there are no requirements of this kind in national Swedish law.

II.A.4.2. Admissibility and evidentiary weight in judicial proceedings

See above.

II.A.4.3. Admissibility and evidentiary weight in administrative matters

See above.

PART III – Incoming documents: Difficulties

OVERVIEW OF PART III

PART III.A. General

III.1. Hague Convention of 5 October 1961 (the ‘Apostille’ Convention)

III.A.1.1. Legal

We have not identified any general difficulties of this kind.

III.A.1.2. Practical

We have not identified any general difficulties of this kind.

III.2. Parallel international agreements

III.A.2.1. Legal

We have not identified any general difficulties of this kind.

III.A.2.2. Practical

We have not identified any general difficulties of this kind.

III.3. National law

III.A.3.1. Legal

We have not identified any general difficulties of this kind.

III.A.3.2. Practical

We have not identified any general difficulties of this kind.

PART III.B. Specific

1. Documents proving involuntary unemployment

We have not identified any particular difficulties concerning documents of this kind.

2. Documents proving a family relationship or other durable relationship

We have not identified any particular difficulties concerning documents of this kind.

3. Documents proving or contesting a parent-child relationship

We have not identified any particular difficulties concerning documents of this kind.

4. Documents proving the name and forenames of a child or adult

We have not identified any particular difficulties concerning documents of this kind.

5. Documents proving or annulling/terminating a marriage/civil partnership or other durable relationship

We have not identified any particular difficulties concerning documents of this kind.

6. Documents proving a person's legal establishment for the purpose of pursuing specific regulated professional activities

We have not identified any particular difficulties concerning documents of this kind.

7. Documents proving a person's professional qualifications (diplomas)

We have not identified any particular difficulties concerning documents of this kind.

8. Documents proving a person's death

We have not identified any particular difficulties concerning documents of this kind.

9. Documents proving a person's date of birth

We have not identified any particular difficulties concerning documents of this kind.

10. Documents proving the establishment by incorporation of a company

We have not identified any particular difficulties concerning documents of this kind.

11. Documents proving the constitution of a company, including any official translation thereof

We have not identified any particular difficulties concerning documents of this kind.

12. Documents proving the latest banking accounts of a company

We have not identified any particular difficulties concerning documents of this kind.

13. Documents proving the deposit of cash or certificates of deposit

We have not identified any particular difficulties concerning documents of this kind.

PART IV – Outgoing documents: Difficulties

OVERVIEW OF PART IV

PART IV.A. General

IV.A.1. Hague Convention of 5 October 1961 (the 'Apostille' Convention)

IV.A.1.1. Legal

We have not identified any difficulties of this kind.

IV.A.1.2. Practical

It is reported from the Notaries Public that there is an unsatisfactory uncertainty as to the need for Apostille on Swedish documents to be produced abroad. It is up to the individual to find out what a foreign authority requires. Some people have outgoing documents notarised in this way, just in case it would be demanded by the receiving authority. This might lead to unnecessary use of the procedure and, consequently, unnecessary costs.

IV.A.2. Parallel international agreements

IV.A.2.1. Legal

We have not identified any difficulties of this kind.

IV.A.2.2. Practical

We have not identified any difficulties of this kind.

IV.A.3. National law

IV.A.3.1. Legal

We have not identified any difficulties of this kind.

IV.A.3.2. Practical

Apparently there is an unsatisfactory uncertainty as to the need for legalisation of Swedish documents to be produced abroad. It is up to the individual to find out what a foreign authority requires. This might lead to unnecessary use of the procedure and, consequently unnecessary costs. Cf. <http://www.sweden.gov.se/sb/d/5706/a/46524#item46809>.

PART IV.B. Specific

1. Documents proving involuntary unemployment

We have not identified any particular difficulties concerning documents of this kind.

2. Documents proving a family relationship or other durable relationship

We have not identified any particular difficulties concerning documents of this kind.

3. Documents proving or contesting a parent-child relationship

We have not identified any particular difficulties concerning documents of this kind.

4. Documents proving the name and forenames of a child or adult

We have not identified any particular difficulties concerning documents of this kind.

5. Documents proving or annulling/terminating a marriage/civil partnership or other durable relationship

We have not identified any particular difficulties concerning documents of this kind.

6. Documents proving a person's legal establishment for the purpose of pursuing specific regulated professional activities

We have not identified any particular difficulties concerning documents of this kind.

7. Documents proving a person's professional qualifications (diplomas)

We have not identified any particular difficulties concerning documents of this kind.

8. Documents proving a person's death

We have not identified any particular difficulties concerning documents of this kind.

9. Documents proving a person's date of birth

We have not identified any particular difficulties concerning documents of this kind.

10. Documents proving the establishment by incorporation of a company

We have not identified any particular difficulties concerning documents of this kind.

11. Documents proving the constitution of a company, including any official translation thereof

We have not identified any particular difficulties concerning documents of this kind.

12. Documents proving the latest banking accounts of a company

We have not identified any particular difficulties concerning documents of this kind.

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13. Documents proving the deposit of cash or certificates of deposit

We have not identified any particular difficulties concerning documents of this kind.

PART V – Justification of legalisation or other similar or equivalent requirements identified in Part I

OVERVIEW OF PART V

PART V.A. General

V.A.1. Hague Convention of 5 October 1961 (the ‘Apostille’ Convention)

V.A.1.1 Requirements and procedures

In your answer to the questions of Part V sections 1 to 3 please answer the following questions:

1. Are there legalisation requirements or other similar or equivalent requirements as regards incoming or outgoing public documents as identified in Part I (hereinafter ‘requirements and procedures’) or rules concerning the effects of foreign public documents satisfying such requirements and procedures as identified in Part II (hereinafter ‘effects rules’) that overtly discriminate on grounds of nationality (whether between your own Member State and other Member State or between different Member States)?

This question is not quite relevant regarding the Swedish conditions. Accordingly, we have not identified any requirements or rules in Swedish law being overtly discriminating on grounds of nationality.

2. Are there requirements and procedures or effects rules that otherwise appear discriminatory or operate in a discriminatory matter?

This question is not quite relevant regarding the Swedish conditions. Accordingly, we have not identified any requirements etc in Swedish law that otherwise appear discriminatory or operate in a discriminatory matter.

3. Are the requirements and procedures or effects rules (potentially) liable to hinder or make less attractive the free movement of goods, persons, services or capital between the Member States of the European Union? How?

The reported uncertainty as to the need for legalisation etc. of Swedish documents to be produced abroad perhaps make the free movement of goods, persons, services or capital between Sweden and other Member States of the European Union less attractive.

4. What is the rationale for the requirements and procedures and effects rules, in particular those which you have identified in response to questions 1 to 3 above?

As indicated, the question is not quite relevant regarding the Swedish conditions. Anyhow, it should be noted that the Swedish way of desisting from formal requirements of different kinds for recognizing foreign documents is remarkably undiscussed. One might consider this attitude to be expressing an unregulated *presumption of genuineness*, which, at least in former days, was applied to official Swedish documents. See Ernst Trygger: Om skriftliga bevis såsom civilprocessuellt institut, 2nd Edition, P.A.

Norstedt & Söners Förlag, Stockholm 1921, page 84-94, and Ernst Kallenberg: Svensk civilprocessrätt, Andra bandet: I, Lund 1927, page 808-813. Cf. Per Olof Ekelöf: Rättegång, Fjärde häftet, 6th Edition, Norstedts 1992, page 211-216.)

5. Are there situations in which the requirements and procedures or effects rules appear irrational?

The question is not quite relevant regarding the Swedish conditions.

6. Are the requirements and procedures and effects rules effective? Do they in practice guarantee that their aims are achieved?

The question is not quite relevant regarding the Swedish conditions.

7. Are there situations in which the requirements and procedures or effects rules appear ineffective?

The question is not quite relevant regarding the Swedish conditions.

8. Are requirements and procedures and effects rules necessary, or are there less burdensome ways of achieving the same aims?

The question is not quite relevant regarding the Swedish conditions. However, the Swedish attitude might show that there are less burdensome ways of achieving the same aims as requirements and procedures and effects rules of other countries.

9. Are the requirements and procedures and effects rules proportionate to the objectives pursued? Are there any particular cases where a requirement or a procedure or effects rules is excessively burdensome, given its aims?

The question is not quite relevant regarding the Swedish conditions.

10. What consequences flow from a failure to comply with the requirements and procedures? Are there any particular cases where the consequences appear disproportionate?

The question is not quite relevant regarding the Swedish conditions.

11. Are there any areas where alternative requirements and procedures or effects rules have been adopted which might provide a general solution in the present context to reduce the administrative or other burdens? What are those arrangements and how do they operate? What is their advantage?

The question is not quite relevant regarding the Swedish conditions. However, see above.

12. Have there been any developments in this field in your country? Have requirements or procedures or effects rules recently been added, modified or abolished? What reasons (if any) were given for those changes?

There have not been any recent developments in this field in Sweden.

V.A.1.2 Effects rules

See V.A.1.2 above.

V.A.2. Parallel international agreements

V.A.2.1 Requirements and procedures

See V.A.1.2 above.

V.A.2.2 Effects rules

See V.A.1.2 above.

V.A.3. National law

V.A.3.1 Requirements and procedures

See V.A.1.2 above.

V.A.3.2 Effects rules

See V.A.1.2 above.

PART V.B. Specific

1. Documents proving involuntary unemployment

See I.B.2.1 above.

2. Documents proving a family relationship or other durable relationship

See I.B.2.2 above.

3. Documents proving or contesting a parent-child relationship

See I.B.2.3 above.

4. Documents proving the name and forenames of a child or adult

See I.B.2.4 above.

5. Documents proving or annulling/terminating a marriage/civil partnership or other durable relationship

See I.B.2.5 above.

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6. Documents proving a person's legal establishment for the purpose of pursuing specific regulated professional activities

See I.B.2.6 above.

7. Documents proving a person's professional qualifications (diplomas)

See I.B.2.7 above.

8. Documents proving a person's death

See I.B.2.8 above.

9. Documents proving a person's date of birth

See I.B.2.9 above.

10. Documents proving the establishment by incorporation of a company

See I.B.2.10 above.

11. Documents proving the constitution of a company, including any official translation thereof

See I.B.2.11 above.

12. Documents proving the latest banking accounts of a company

See I.B.2.12 above.

13. Documents proving the deposit of cash or certificates of deposit

See I.B.2.13 above.

PART VI – Suggested action

OVERVIEW OF PART VI

VI.1. European

In a Ministry of Justice Memorandum of November, 11, 2005, (Ju2005/4749/L2) to the European Commission with Comments on Commission Green Paper on Succession and Wills (Question 38) a representative statement of the official Swedish attitude to legalisation is found: "It would be useful if legalisation of succession-related public documents could be abolished. Legalisation is often an unnecessarily time-consuming exercise." See: http://ec.europa.eu/justice_home/news/consulting_public/successions/contributions/contribution_sweden_en.pdf

The Swedish example might demonstrate that it is possible for a relatively well-functioning society to get on without legalisation requirements or other similar or equivalent requirements. As long as such requirements are considered to be necessary in other countries at least transparency is desirable. It must be possible for the individual to determine what procedures are to be applied in different situations of cross-border use of public documents. This may be achieved by providing information (e. g. on Internet sites of public authorities) or by introducing standard procedures on a European level. However, this should only be regarded as steps towards a really free movement of public documents.

VI.2. Intergovernmental

See above. If development of mutual trust is too slow on a European level, intergovernmental initiative for abolishing unnecessary legalisation requirements etc may be the only practicable path to follow.

VI.3. National

On a national Swedish level the most important action seem to be an easily accessible provision of information on what procedures are to be applied in different situations of cross-border use of public documents.